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10/645,893

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Terry Vovan

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12/15/2008

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EXAMINER

THAKUR, VIREN A

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

12/15/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 10/645,893 | Applicant(s) VOVAN, TERRY | |
| | Examiner VIREN THAKUR | Art Unit 1794 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-7, 18 and 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-7, 18 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. As a result of the amendment to the claims, the rejection of claim 7 under 35 U.S.C. 112, second paragraph has been withdrawn.
2. The rejection of claims 16-17 under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 5-7 and 18-19, and in further view of Zaikaner (D156860), Weiss (D214391) and Portnoy (US 4991811) has been withdrawn as a result of the cancellation of the claims.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. **Claims 5-7 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalmanides et al. (US 5613607) in view of Draenert (US**

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4671263), Elwell (US 1515560), Reid (US 5975322), Foster (US 5810209), Silk (US 7198169) and Schwartz (US 4305180) for the reasons given in the previous Office Action, mailed May 29, 2008, and in further view of Gasbarra et al. (US 3371817), Podel (US 1582429), Schwartz et al. (US 4279355) and Amico (US 4158983).

Regarding the new limitation to claim 5 of the cover peripheral wall having a plurality of dimple receiving regions “each formed by a radially-outward deformed region of said cover peripheral wall” it is noted that Gasbarra et al. teaches in figure 6, for instance, a cover member that comprises radially outward deformed regions (figure 6, item 62). Podel has been further relied on to teach radially outward deformed regions on the cover member, which receive protrusions from the base member when the cover is rotated around the base (see figures 1 and 2, for instance). Schwartz ‘355 similarly has been relied on for teaching wherein the closure member comprises the radially outward deformed region (figure 1, item 36). It is noted that Gasbarra et al. even further teaches wherein the protrusion on the base member (34) snaps radially into the corresponding recess on the cover member when twisted. Amico has been further relied on to teach a first and second member, wherein the receiving channel comprises an additional indent into which the protrusion has been secured (see figure 4, item 38 and figure 5, item 44). Therefore, in view of the art taken as a whole, employing a radially outwardly deformed region that receives a protrusion from a base member and further locks the protrusions on the base member in place has been a conventional structure in the art. Since the art previously relied on, when taken as a whole, already teaches rotating a cover member to lock it in place and further teaches wherein a radial

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deflection occurs when locking the cover onto the base, for the purpose of securing the cover onto the base, to therefore modify the combination and employ a conventional structure for locking a cover member onto a base member, as taught by the newly applied references, would therefore have been an obvious matter of choice and/or design.

Regarding the new limitations to claims 1 and 6 of a resilient plastic, it is noted that the plastic taught by Kalmanides is resilient, since the plastic causes an audible snap when locked (column 13, lines 48-67). Furthermore, it is noted that Reid teaches that both the cap (column 2, lines 28-30) and the bottle (column 4, lines 62-65) can be made from plastic and teaches that an audible sound is made when locking. Since Foster already teaches deflecting a protrusion when it is received in the locking channel, it would have been inherent that the material would have been resilient. Furthermore, Silk also teaches wherein the lid and base are plastic (column 4, lines 58-64), for the purpose of achieving the deflecting snap locking engagement.

Response to Arguments

6. On page 7 of the response, applicant urges that figure 9 of Kalmanides does not show a cavity that receives a flange. It is noted however, as stated in the previous Office Action, mailed May 29, 2008, that figures 17 and 18, for instance, clearly teach cavity in the base member, which receives the protrusion which is on the cover member. Nevertheless, the secondary references have been relied on to teach that it was conventional to reverse the structures such that the base member comprises the

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protrusion and the cover member comprises the receiving cavity. Further on page 7, applicant urges that Schwartz shows a narrowing cut in a coupling nut of steel or hard plastic, but not a resilient plastic sheet. This argument has been considered but is not deemed persuasive. On column 1, lines 55-60, Schwartz teaches using a resilient material. Schwartz only relies on resilient metal due to the fact that the bayonet locking feature is incorporated on connectors which would eventually wear out plastic due to the large number of matings and unmatings of the part (column 1, lines 33-40). In any case, Kalmanides, Reid and Silk already teach resilient plastic materials that deflect. Even Gasbarra et al. teach both the cover and the base are plastic. Applicant further urges on page 7 that none of the references suggest a narrowing in a direction radial to the container vertical axis. It is noted that Reid already teaches this concept (figure 4, item 53). Silk also teaches a narrowing in the radial direction with respect to the container vertical axis, as evidenced by figure 9, item 80. Foster also teaches a radial narrowing (figure 7, item 124 and 138 and column 6, lines 34-48). Even the newly cited reference to Amico (Figure 4, item 38) teaches a radial narrowing. It is noted that the primary difference between Kalmanides and applicant's invention lies in the particular locking features, which the combination of the prior art teaches have been conventional structures for locking two members together.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 6662950, US 5947318, US 5542206, US 5273174, US

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5320233, US 4473170, US 2071266, US 2675040, US 4896783, US 3844443, US

1579942 all disclose bayonet style locking features.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VIREN THAKUR whose telephone number is (571)272-6694. The examiner can normally be reached on Monday through Friday from 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on (571)272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steve Weinstein/
Primary Examiner, Art Unit 1794

/V. T./
Examiner, Art Unit 1794